



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2011 Biennium

Bill #	HB0039	Title:	Revise water right enforcement laws
Primary Sponsor:	Cohenour, Jill	Status:	As Introduced

- | | | |
|---|--|---|
| <input type="checkbox"/> Significant Local Gov Impact | <input type="checkbox"/> Needs to be included in HB 2 | <input type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input checked="" type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>	<u>FY 2012 Difference</u>	<u>FY 2013 Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

Description of fiscal impact:

There is no fiscal impact anticipated from this bill.

FISCAL ANALYSIS

Assumptions:

Judicial Branch

1. This bill allows a district court to appoint a water master to serve as a special master for actions brought pursuant to 85-2-114(1) or (3) or 85-5-301, MCA.
2. The water master appointed will be a water master currently employed by the water court and therefore no additional personnel costs will be incurred.
3. The Department of Justice will establish the "water right enforcement account" stated in section 5.

Department of Justice

4. There is not enough information provided in the bill to ascertain what the fiscal impact could be to the Department of Justice. Initially, the cost of judicial enforcement against a person who is wasting water, using water unlawfully, preventing water from moving to another person having a prior right to use the

water, or violating a provision of Section 85-2-114, MCA; and assessment and collection of penalties under Section 85-2-122 MCA, could be absorbed into the department's operating budget. Eventually the statutory appropriation in Section 5 of the bill would provide funding for the costs of these activities by the department. Historically, penalties for non-compliance with Section 85-2-114, MCA, have not been assessed and there is no data available for use in estimating the potential revenue from fines that could be collected. Presumably, the revenue collected would offset the costs involved with enforcement and assessing penalties and there would be no net fiscal impact as a result of this bill.

5. 17-1-508, MCA requires analysis of the statutory appropriation relative to the guidance in 17-1-508 (2), MCA, to be published in the fiscal note. In reviewing and establishing statutory appropriations, the legislature shall consider the following guidelines. Answer yes or no to each of the following guidelines regarding the statutory appropriation:

	<u>YES</u>	<u>NO</u>
a. The fund or use requires an appropriation.	Yes	
b. The money is not from a continuing, reliable, and estimable source.	Yes	
c. The use of the appropriation or the expenditure occurrence is not predictable and reliable.	Yes	
d. The authority does not exist elsewhere.	Yes	
e. An alternative appropriation method is not available, practical, or effective.		No
f. Other than for emergency purposes, it does not appropriate money from the state general fund.	Yes	
g. The money is dedicated for a specific use.	Yes	
h. The legislature wishes the activity to be funded on a continual basis.	Yes	
i. When feasible, an expenditure cap and sunset date are included.		No

Sponsor's Initials

Date

Budget Director's Initials

Date



Dedication of Revenue 2011 Biennium

- a) **Are there persons or entities that benefit from this dedicated revenue that do not pay? (please explain)**

The dedicated revenue in the water right enforcement account created by section 5 of the bill will globally benefit all citizens as a result of enforcement powers backed by the ability to assess fines.

- b) **What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?**

The bill acknowledges that fines imposed against violators of water right enforcement laws will be dedicated to water right enforcement activities by the Department of Justice.

- c) **Is the source of revenue relevant to current use of the funds and adequate to fund the program activity that is intended? Yes / No (if no, explain)**

Yes. Revenues from water right enforcement penalties collected by an action of the attorney general, represented by the water right enforcement program in the Department of Justice, is directly connected to supporting the enforcement activities provided to the Department of Justice in section 6 of the bill.

- d) **Does the need for this state special revenue provision still exist? ☒ Yes ☐ No (Explain)**

The citizens will benefit by having the water right enforcement program in the Department of Justice which can assess penalties against violators of water right laws. This program will provide direct or indirect assistance to the Department of Natural Resources and Conservation in carrying out enforcement activities.

- e) **Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please Explain)**

No. If passed, the bill will provide for a statutory appropriation from the legislature to fund enforcement activities of 85-2-114, MCA.

- f) **Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please Explain)**

Yes. If HB 39 is passed by the legislature it may be implied that the legislature recognizes a need for water right enforcement activities by the Department of Justice.

- g) **How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please Explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)**

There will be no effect on the agency. Activities will be absorbed into already existing accounting/auditing departmental functions.